

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, MAY 24, 2007

Presiding: Mayor Glenn W. Dalling
Meeting Convened at 6:30 p.m.
Prayer: Mayor Dalling
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell; Councilmembers Walter Deitz, Bruce King and Brad Orme; Joette Lookabaugh, City Attorney; Kyra Davis, Standard Journal; Sharee Palmer; Jan Gallup; Dave Thompson; Spencer Cook; Dorothy A. Bowen; Paul Lusk; and Zack Paul. Councilmember Harold Harris was excused.

PUBLIC HEARING (TITLE 8, CHAPTER 4, WIRELESS TELECOMMUNICATIONS):

The Mayor welcomed everyone and brought the hearing to order. He reported we have had requests for cell towers in the city and surrounding areas and it is demanded that something be done on it. The Planning & Zoning Commission prepared the proposed ordinance that we are having the public hearing on tonight. City Clerk Sharon Bell reported there was no prior written testimony submitted. Mayor Dalling called first for those who wanted to testify in favor of approving Title 8, Chapter 4 (Wireless Telecommunications). No one testified in favor. He then called for those who wanted to testify as being neutral. No one testified as being neutral.

Mayor Dalling called for those who wanted to testify against approving Title 8, Chapter 4 (Wireless Telecommunications). Comments were made as follows:

SHAREE PALMER, 1087 E. Moody Road. She is against the ordinance as it is written. Planning & Zoning has done a good job and made some improvements, but she still sees some problems with it. She doesn't think a variance should be allowed for an accessory use of a personal wireless facility. She said 8(3)(2)(b) allows for a variance; then 9-12-5 states a variance could not be allowed, so she wonders why that is even in there. She said the permit process table is confusing that states when a special use permit is required, then it doesn't mention a special use permit again in the application process. There is something missing on the process of what they need to do if they are required to have a special use permit. She feels that every PWSF permit should require a special use permit and there would be a public hearing. She discussed 8-3-6(b)(5) and feels it would be discrimination. She said she asked Guy Smith specifically about this and he agreed. Mr. Smith is a zoning specialist for Faulk & Foster who came to P&Z's first public hearing on the cell tower ordinance in January. He also said a lot of things are a little vague. Attorney Lookabaugh said in order to consider Sharee's objections, we have to refer to exactly what she is talking about on the page. Sharee said guide support is mentioned in the table on page 5, and the definitions don't mention guide support at all. She also discussed street pole, and it doesn't say that a street pole has to abut a street. Sharee said the application form is way too simple. Everything that is asked for in the ordinance should be listed on the application.

JAN GALLUP, 309 South Austin Avenue. Attorney Lookabaugh asked Jan to refer to the page and number so that we can make meaningful observations on her objections. Jan's first comment was on page 5. She feels any cell tower should be required to get a special use permit. On page 7, she also feels under application contents it should contain everything that should be on an application to make sure the application is meaningful. On page 10, she said she is uneasy with the city being given preferential placement of cell towers. The city owns property in a number of zoning districts and she is not sure why city-owned property was given priority over non-residential zones. Also on page 10, an R-A zone is given more restrictive status than an R-2 zone. Attorney Lookabaugh asked what her basis is for that objection. Jan said she feels where a cell tower is placed; the property that it is placed on will receive economic gain. So by allowing the city to have that preferential placement of cell tower equipment, you are allowing them to have undue advantage over other property owners in the city. On page 11, she is concerned about the heights of cell towers. Jan presented her comments in writing to the city clerk.

DAVE THOMPSON, 634 South 7th West, in the impact area. He said he agrees with what has been mentioned. On page 2, he wonders why government antennas should be exempt. Attorney Lookabaugh asked if he had any statutory support for that objection. He said he would e-mail a copy of that to everyone. On page 3, PWSFs are not the only ones to have a site. Everyone ends up having a site for his tower. On the bottom of page 3 and the top of page 4, Mr. Thompson discussed tower definitions. He said a lot of frequencies are excluded. On 8-3-5 existing services modification is not defined. He feels 90 days is not enough time to get through the process. Mr. Thompson made several other suggestions. Mayor Dalling asked if he had some of this written up. Dave said he sent an earlier e-mail and has since revised it. Attorney Lookabaugh asked him to update an e-mail to her so that we will have everything in writing.

SPENCER COOK, 16 North 7th West. Mr. Cook reported he represents the school district. The school district is concerned that they will have to comply with the regulations under this ordinance and he wondered if they would be considered a government entity. He referred the council to page 4, 8-3-4(A). He also wondered if the cell coverage inside of the school building is less than adequate, can they put up a cell tower on their buildings. He reported they are considering offering Internet to the teachers at home by putting up an antenna on their homes to connect to the school's network and wondered if that would be in violation. He discussed heights, etc. Attorney Lookabaugh asked Mr. Cook to put his remarks in writing and said there are certain things that we have to look up.

7:15 p.m. **PUBLIC HEARING – PROPOSED GRANT ACTIVITIES (BUSINESS PARK):**

Present: Mayor Dalling; Sharon L. Bell, Clerk; Councilmembers Walter Deitz, Bruce King and Brad Orme; Joette Lookabaugh, City Attorney; Stephanie Blackham, Planning & Zoning Commission; Kyra Davis, Standard Journal; Jan Gallup; Sharee Palmer; Dorothy A. Bowen; Ted Hendricks; Paul Lusk; and Zack Paul.

Mayor Dalling brought the hearing to order, stated the reason for the public hearing and then introduced Dorothy Bowen and Ted Hendricks from The Development Company. The Mayor

asked that Ms. Bowen address the application, the scope of work, the budget, schedule, benefits of the project and the location.

Noting that the application document was available for review, Ms. Bowen discussed the following aspects of the project.

I. A description of the proposed project was stated as:

The construction of infrastructure to serve the city-owned property adjacent to U.S. Highway 20 and the Sugar City half interchange during the summer and fall of 2007. This 20-acre parcel will be improved with the extension of infrastructure to then serve an anchor tenant and other potential tenants in a Business Park setting. The project is on property already zoned for commercial use.

II. The proposed scope of work:

Construction is to include the extension of infrastructure services for water, wastewater, power backbone, communications and roadways into the Business Park site.

III. The proposed budget:

The total project costs will be approximately \$820,000. These funds will be a mix of the State Rural Community Grant funds of \$500,000 and \$120,000 in land value by Madison County, \$100,000 in cash from the city and \$100,000 from The Development Company. All funding will be used in the development and construction of the Business Park site.

Additionally, an anchor tenant has committed to locating their business – Yellowstone Hotel Systems – in the Business Park. They anticipate construction startup of their facility in 2008. The XXXXX square foot facility will initially house fifty-two new jobs and have the capacity to house an additional 30 to 40 new jobs as company growth dictates. They estimate their initial investment in the community at \$2,000,000.

IV. Benefits of the project:

Benefits are the creation of 52 new jobs in a “clean business” environment. The jobs will be full time with health, vacation, sick, retirement and profit sharing benefits. A livable wage will be earned, with most positions starting at a minimum of \$12 per hour.

Yellowstone Hotel Systems desires to locate in Sugar City because of its proximity to a quality workforce, the wholesome attitude of the community and the opportunities this project provides to them by creating a developed business environment for their expanding company.

Mr. Zach Paul, President and CEO of Yellowstone Hotel Systems was present at the meeting and reiterated the company’s commitment to the project and to the city.

V. The proposed schedule:

It is anticipated that startup will occur in the late summer of 2007 and should be completed by

early spring 2008.

VI. The proposed beneficiaries and objectives:

The entire community will benefit with the creation of a minimum of fifty-two+ new jobs. The state recognized that at a minimum there is underemployment in the community of 11.6% and indicates that economic development activities are a critical priority for the area.

The project is designed to create an area for business within the City of Sugar City that will create new jobs and growth opportunities for existing and new business startups.

VII. Questions and comments:

The Mayor asked if there were additional questions or comments regarding the project.

SHAREE PALMER, 1087 East Moody Road. She thinks it is wonderful and a great direction the city is moving in. She hopes the city will recognize the importance of getting design standards in place.

JAN GALLUP, 309 South Austin Avenue. She reiterated what Sharee said.

No one opposed the proposal.

It was noted for the record that the city will need to update its current Fair Housing program, the 504/ADA Transition Plan regarding accessibility of public buildings, and that a citizens' review committee will be included in the processes.

The grant application handbook and the grant application were both available for review.

It was also noted that the funds for the Rural Community Block Grant program come from the State of Idaho and are intended for efforts to enhance economic development activities in communities with a population of less than 10,000.

7:25 p.m. The public hearings ended and the Council convened their regular meeting.

Present: Mayor Dalling, Sharon L. Bell, Clerk; Councilmembers Walter Deitz, Bruce King and Brad Orme; Joette Lookabaugh, City Attorney; Stephanie Blackham, Planning & Zoning Commission; Kyra Davis, Standard Journal; Sharee Palmer; Dorothy A. Bowen; Dave Thompson; and Paul Lusk.

PROPOSED GRANT ACTIVITIES (BUSINESS PARK):

RESOLUTION 2007-2 – Authorizing Mayor to Sign Documents Related to Grant Process (Business Park): Dorothy A. Bowen read Resolution 2007-2 in its entirety. It is a resolution to submit an application for an Idaho Rural Community Block Grant to assist in the construction of an infrastructure project. It was moved by Councilmember Deitz and seconded by Councilmember King that we adopt Resolution 2007-2. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed. A copy of said resolution is attached hereto, marked "Attachment 1."

The Mayor asked if there were any corrections to the minutes of the regular meeting held May 10, 2007, and the minutes of the special meeting held May 19, 2007. Each Councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember King and seconded by Councilmember Orme to accept the minutes of May 10, 2007; motion carried. It was moved by Councilmember Deitz and seconded by Councilmember Orme to accept the minutes of May 19, 2007; motion carried.

PUBLIC COMMENT: There was no public comment.

PLANNING & ZONING REPORT: Stephanie Blackham addressed the Council.

Shawna Nelson – Home Business License Application in Impact Area: Brent McFadden attended the P&Z meeting. He reported to Stephanie the next day that Shawna Nelson's home business license application in the impact area, which they approved, was illegal because she is in the impact area and we don't approve things like that in the impact area. The county does. The county should adopt our ordinances and then they will okay it, and Stephanie didn't realize that.

Bill & Angelika Gutenberger (Cozy Swimming Critters: Stephanie reported that the Gutenburgers are currently checking with Health & Welfare to see if their pool qualifies as a public pool and they will get back to us. Attorney Lookabaugh said Gutenburgers are not legal in an R-2 zone to have the swimming lessons and if P&Z approves it, it will be against legal advice. We need a letter from the state saying they are not a public pool.

Edward Fisher – Code Covenants & Restrictions: P&Z got the CCRs from Edward Fisher, so he is scheduled for public hearing on June 7th for the apartments to be changed to condominiums. A discussion was had on the fact that there is one water meter for each building. Stephanie said that would be addressed.

Impact Study – Old Farm Estates: P&Z discussed the impact study on Old Farm Estates. They have several concerns that have been conveyed to the developer – lot sizes, roads and where they connect, how large they are, their plans for connecting through to other streets in the city, etc. They are concerned about wastewater disposal and water supply. They are worried that we won't have enough water. Attorney Lookabaugh said they are all mentioned in Dick Dyer's response to the impact report, so it is okay to discuss them. P&Z is concerned about the capacity of our agreement with Rexburg on wastewater. This subdivision would use 75% of the capacity we have left. We need to address these concerns now. They don't like the location of the open areas, and would like to see some commercial. Stephanie said Brent McFadden attended their meeting.

County Adopting our Ordinances for the Impact Area: Attorney Lookabaugh said she met with Brent McFadden and they are ready to adopt our impact area ordinances.

Ordinance Revisions: Stephanie reported P&Z had a public hearing on the impact area ordinances and zoning districts a year ago. Attorney Lookabaugh said some of the ordinances are under revision and haven't been quite approved by the city council. She wants to take a look at those before the county adopts them. Stephanie reported they also had a public hearing on a subdivision ordinance. She wants to see something done with those so we can get them on the

books. She said we need to have a current zoning map. It was approved back in May and the county has it. She said the transportation map and the trails map are proposed but not approved.

Design Review: P&Z has a direction on design review and hopefully they will have something for the council in the next month or two. They will also be working on the home business/home occupation ordinance.

DON RYDALCH – PRELIMINARY COST OF AND PLANS FOR THE WEST

ENTRANCE PROJECT: Mr. Rydalch addressed the council and presented a document entitled, “Potential Grant for the West Entry Area (Elevator)” dated 24 May 2007. A copy of said document is attached hereto, marked “Attachment 2.” A discussion was had on the cost of the whole project and whether the city desired to pay \$9,000 in engineering fees up front without knowing if the project would be approved. It was the consensus of the council for Mr. Rydalch to go ahead and present a letter of intent.

Status of Grant for Remodeling Project at City Building: Mr. Rydalch assumes the grant hasn’t been approved because he hasn’t heard anything about it.

GARBAGE CONTAINERS IN DOWNTOWN AREA: The Mayor reported we now have garbage containers on the north side of Center Street. He said the employees would dump them and take care of them. He will contact the school and see if they will put a container near the school.

JOETTE LOOKABAUGH – DEVELOPMENT NORTH OF TETON RIVER: Attorney Lookabaugh reported there was a preapplication conference between the city attorney, the city engineer and the mayor regarding a development north of the Teton River by a developer out of Jackson Hole represented by Terry Mortensen. He was proposing a subdivision with various types of single-family homes. He was advised that the city is interested in a planned unit development (PUD) submission that would incorporate some commercial, revenue-raising business type entities in this proposed development that would coordinate with the kind of development being proposed in the Sun River project, which abuts it. We talked about needs of the city as far as recreational facilities. We talked about creating a recreational type of lake in the existing gravel pit and doing a walking path in conjunction with the adjoining proposed development in Sun River. We gave them a lot of food for thought. They are not even in the sketch phase. They are just in the thinking phase of what they might like to put out there. They are in the end stages of buying the property. She said Mr. Mortensen met with the county about being in Sugar City’s impact area and they referred him to us. They were thinking of going before the planning and zoning commission, but it was premature because there are some serious engineering questions that had to be addressed by the city engineer, and those were addressed.

TITLE 8, CHAPTER 4, WIRELESS TELECOMMUNICATIONS: Attorney Lookabaugh reported because the objections were specific and detailed during the public hearing, she wants to have an opportunity to compare them with the written materials submitted by the objectors and make a written analysis of those and have them taken up at the next council meeting. If there are material changes, we will need another public hearing.

MOTION TO EXTEND MORATORIUM ON WIRELESS TELECOMMUNICATIONS: It was moved by Councilmember Deitz and seconded by Councilmember King that we extend the moratorium on wireless telecommunications until June 28; Councilmember Orme opposed; motion carried.

APPLICATION FOR PWSF (PERSONAL WIRELESS SERVICE FACILITY) PERMIT:

The mayor reported there was a strong suggestion that more information should be required in the permit application. Attorney Lookabaugh said that was part of the objection and part of the same consideration. She will look into it.

DEPARTMENT REPORTS:

COUNCILMEMBER DEITZ: Walter reported a year ago we extended a water line in Moon Park to put in the Welcome to Sugar City sign. At that time Dick Dyer made the comment that Sun River would pay for the extension of that (\$7,814.71 billed 7-14-06), but we have not received any money. Sharon reported she talked to Dick and he thought it had been paid. She gave him another copy of the bill. Walter said we also need to be paid \$5,400 for the paving in Sun River.

COUNCILMEMBER ORME: No report.

COUNCILMEMBER KING:

Title 1, Chapter 3 (Definitions): Bruce presented his suggested changes to Title 1, Chapter 3, which is the definitions chapter. He discussed several definitions, which he added. He asked the council to review his suggested changes and add any definitions they desire. He said he may come back and modify some of the definitions because there might be some redundancies. Bruce said he is ready to launch into Chapter 4.

Title 9, Chapter 6, Zoning Districts: Bruce presented his suggested changes to Title 9, Chapter 6. We've had this on our agendas for some time, and we need to proceed and finalize this chapter and our zoning map. He said he hasn't received any input from any of the councilmembers. It was suggested that we set up a priority list on approving the ordinances. Bruce feels Title 9, Chapter 6 should be first and then the subdivision ordinance. The zoning map for the city should be at the top of the list also. Bruce feels we should try to finalize Title 9, Chapter 6 two weeks from tonight. He asked the council to e-mail their suggestions to him.

MAYOR'S BUSINESS:

Concessions in Smith Park: A discussion was had on selling concessions in Smith Park during evening softball games under the lights. **MOTION:** It was moved by Councilmember Deitz and seconded by Councilmember King that we consent to the high school selling concessions in Smith Park, providing they pay for a business license; Councilmember Orme abstained from voting. **MOTION AND SECOND WITHDRAWN.**

After further discussion, it was the consensus of the council to deny the boys basketball team at the high school permission to sell concessions at the park. We need to draft an ordinance stating our policy.

The Mayor entertained a motion to go into executive session.

EXECUTIVE SESSION:

9:25 p.m. It was moved by Councilmember King and seconded by Councilmember Orme, pursuant to Title 67-2345(1)(b) & (f), that we move into executive session to discuss personnel and litigation matters. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

Discussions during executive session were on procurement of engineering consultants for the proposed business park and on annexation negotiations.

10:45 p.m. The executive session ended and the regular Council meeting adjourned.

Signed: _____
Glenn W. Dalling, Mayor

Attested: _____
Sharon L. Bell, Clerk